

EXHIBIT K

Niemann, Robert

September 14, 2007

Baltimore, MD

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL : MDL NO. 1456

INDUSTRY AVERAGE WHOLESALE : CIVIL ACTION

PRICE LITIGATION : 01-CV-12257-PBS

THIS DOCUMENT RELATES TO :

U.S. ex rel. Ven-a-Care of : Judge Patti B. Saris

the Florida Keys, Inc. :

v. :

Abbott Laboratories, Inc., : Chief Magistrate

No. 06-CV-11337-PBS : Judge Marianne B.

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Bowler

Baltimore, Maryland

Friday, September 14, 2007

Videotaped Telephone Deposition of ROBERT NIEMANN

Henderson Legal Services
202-220-4158

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<p style="text-align: right;">Page 2</p> <p>1 IN THE CIRCUIT COURT OF</p> <p>2 MONTGOMERY COUNTY, ALABAMA</p> <p>3 -----x</p> <p>4 STATE OF ALABAMA, :</p> <p>5 Plaintiff, :</p> <p>6 vs. : Case No.: CV-05-219</p> <p>7 ABBOTT LABORATORIES, INC., : Judge Charles Price</p> <p>8 et al. :</p> <p>9 Defendants. :</p> <p>10 -----x</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 4</p> <p>1 IN THE CIRCUIT COURT OF THE FIRST CIRCUIT</p> <p>2 STATE OF HAWAII</p> <p>3 ----- x</p> <p>4 STATE OF HAWAII, :</p> <p>5 Plaintiff, :</p> <p>6 vs. :Case No. 06-10720-04-EEH</p> <p>7 ABBOTT LABORATORIES, et al., :Judge Eden Elizabeth</p> <p>8 Defendants. :Hifo</p> <p>9 ----- x</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 3</p> <p>1 IN THE COURT OF THE SECOND JUDICIAL CIRCUIT</p> <p>2 IN AND FOR LEON COUNTY, FLORIDA</p> <p>3 THE STATE OF FLORIDA</p> <p>4 ex rel.</p> <p>5 ----- x</p> <p>6 VEN-A-CARE OF THE FLORIDA :</p> <p>7 KEYS, INC., a Florida :</p> <p>8 Corporation, by and through its :</p> <p>9 principal officers and directors, :</p> <p>10 ZACHARY T. BENTLEY and :</p> <p>11 T. MARK JONES, :</p> <p>12 Plaintiffs, :</p> <p>13 vs. : Civil Action</p> <p>14 MYLAN LABORATORIES INC.; MYLAN : No.: 98-3032G</p> <p>15 PHARMACEUTICALS INC.; NOVOPHARM : Judge: William</p> <p>16 LTD., SCHEIN PHARMACEUTICAL, INC.;; L. Gary</p> <p>17 TEVA PHARMACEUTICAL INDUSTRIES :</p> <p>18 LTD., TEVA PHARMACEUTICAL USA; :</p> <p>19 and WATSON PHARMACEUTICALS, INC., :</p> <p>20 Defendants. :</p> <p>21 ----- x</p> <p>22</p>	<p style="text-align: right;">Page 5</p> <p>1 COMMONWEALTH OF KENTUCKY</p> <p>2 FRANKLIN CIRCUIT COURT - DIVISION II</p> <p>3 CIVIL ACTION NO. 03-CI-1134</p> <p>4 ----- x</p> <p>5 COMMONWEALTH OF KENTUCKY :</p> <p>6 Plaintiff, : Judge Crittenden</p> <p>7 vs. :</p> <p>8 ABBOTT LABORATORIES, INC. :</p> <p>9 Defendant. :</p> <p>10 ----- x</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

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<p style="text-align: right;">Page 6</p> <p>1 STATE OF SOUTH CAROLINA : IN THE COURT OF 2 COUNTY OF RICHMOND : COMMON PLEAS 3 : FOR THE FIFTH 4 ----- X JUDICIAL DISTRICT 5 STATE OF SOUTH CAROLINA : 6 and HENRY D. McMASTER in: Case No. 2006-CP-40-4394 7 his official capacity as: 8 Attorney General for the: 9 State of South Carolina : 10 Plaintiffs, : 11 vs. : 12 ABBOTT LABORATORIES : 13 Defendant. : 14 ----- X 15 16 17 18 19 20 21 22</p>	<p style="text-align: right;">Page 8</p> <p>1 APPEARANCES: 2 3 On Behalf of the United States of America: 4 LAURIE A. OBEREMBT, ESQ. 5 U.S. Department of Justice 6 Civil Division 7 601 D Street, Northwest 8 P.O. Box 261 9 Washington, D.C. 20044 10 11 On Behalf of the U.S. Department of 12 Health and Human Services: 13 LESLIE STAFFORD, ESQ. 14 U.S. Department of Health and Human Services 15 OGC, CMS Division 16 Mail Stop C2-05-23 17 7500 Security Boulevard 18 Baltimore, MD 21244-1850 19 (410) 786-9655 20 21 22</p>
<p style="text-align: right;">Page 7</p> <p>1 STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY 2 Branch 9 3 ----- X 4 STATE OF WISCONSIN, : 5 Plaintiff, :Case No. 04-CV-1709 6 vs. : 7 AMGEN, INC., et al, : 8 Defendants. : 9 ----- X 10 Baltimore, Maryland 11 Friday, September 14, 2007 12 Videotaped Telephone Deposition of ROBERT 13 NIEMANN, a witness herein, called for examination by 14 counsel for Abbott Laboratories in the above-entitled 15 matter, pursuant to subpoena, the witness being duly 16 sworn by SUSAN L. CIMINELLI, a Notary Public in and 17 for the State of Maryland, taken at the offices of 18 Centers for Medicare & Medicaid Services, 7411 19 Security Boulevard, Baltimore, Maryland, at 9:18 20 a.m., and the proceedings being taken down by 21 Stenotype by SUSAN L. CIMINELLI, CRR, RPR, and 22 transcribed under her direction.</p>	<p style="text-align: right;">Page 9</p> <p>1 APPEARANCES (continued) 2 3 On behalf of the State of California: (Via telephone) 4 RANDAL GLASER, ESQ. 5 Bureau of Medi-Cal Fraud & Elder Abuse 6 Office of the Attorney General 7 California Department of Justice 8 (619) 688-6099 9 10 On Behalf of the State of Alabama: 11 ROGER BATES, ESQ. 12 Hand Arendall, L.L.C. 13 1200 Park Place Tower 14 2001 Park Place North 15 Birmingham, AL 35203 16 (205) 502-0105 17 18 19 20 21 22</p>

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<p>1 Q. With the in person meetings or the</p> <p>2 face-to-face meetings, my question is, would you work</p> <p>3 with the legislative office ahead of time to prepare</p> <p>4 for these communications?</p> <p>5 A. I mean, that's such a general question,</p> <p>6 I'm sure we had discussions.</p> <p>7 Q. Right.</p> <p>8 A. And they are not always -- they weren't</p> <p>9 always specific, you know, we didn't know what the</p> <p>10 staffer was going to ask. But there would -- yes, we</p> <p>11 would have, we would have discussions.</p> <p>12 Q. And you indicated to me that you can't</p> <p>13 remember any specifics of any of these conversations?</p> <p>14 A. No. Not really.</p> <p>15 Q. And why is that?</p> <p>16 A. Well, it's -- it's because I've moved on.</p> <p>17 Q. And it's been a long time?</p> <p>18 A. Yes. It's been a long time. I don't, I</p> <p>19 don't think about this stuff.</p> <p>20 Q. So if I had asked you, say, in 1997 about</p> <p>21 a conversation that took place in 1996, there is a</p> <p>22 much better chance that you would remember what you</p>	<p>1 communications were between the agency and Congress</p> <p>2 regarding average wholesale price, standing here in</p> <p>3 2007, is there any way that I could reconstruct those</p> <p>4 communications?</p> <p>5 A. I guess your best hope of doing that, if</p> <p>6 that's possible, would be to contact the legislative</p> <p>7 people, the staff over there.</p> <p>8 Q. Do you remember by name any of the other</p> <p>9 individuals who were on any of these meetings or</p> <p>10 telephone calls?</p> <p>11 A. Well, one name I certainly remember is Ira</p> <p>12 Bernie, who may still be working there. Another</p> <p>13 name, and I'm sure she is not working there now, is</p> <p>14 Kathleen. I seem to have a pattern here. I can</p> <p>15 remember first names and not last names. I can't</p> <p>16 remember Kathleen's last name, but I'm sure she left</p> <p>17 the government.</p> <p>18 Q. Where did they work, Kathleen and Ira</p> <p>19 Bernie?</p> <p>20 A. It was called OLP, at least then. Office</p> <p>21 of -- well, the L is Legislation. I'm not sure what</p> <p>22 the P stands for. It was Office of Legislation.</p>
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<p>1 said in 1996?</p> <p>2 MS. OBEREMBT: Objection.</p> <p>3 THE WITNESS: I would hope so.</p> <p>4 BY MR. COOK:</p> <p>5 Q. It's fair to say?</p> <p>6 A. I guess that's right. I hope that's true.</p> <p>7 Q. Does anything stick out in your mind about</p> <p>8 any of the conversations with Congress on drug</p> <p>9 payment policy issues? I mean, is there one that</p> <p>10 really stands out at all with Congressman so and so</p> <p>11 and he said something or --</p> <p>12 A. No.</p> <p>13 Q. Do you know if any of these conversations</p> <p>14 had to do with the concept of average wholesale</p> <p>15 price?</p> <p>16 A. Yes.</p> <p>17 Q. Was that a frequent topic of conversation</p> <p>18 in your -- to the extent that frequent can be used</p> <p>19 for these conversations with the legislative branch?</p> <p>20 A. Yes. Well, that was the basis for what</p> <p>21 our payment policy was, so yes. It would have been.</p> <p>22 Q. If I wanted to find out what those</p>	<p>1 Q. Anybody else that you can remember that</p> <p>2 were involved in these conversations?</p> <p>3 A. Peter Hickman, he was the division</p> <p>4 director over there.</p> <p>5 Q. How about on the other side of the</p> <p>6 telephone on the legislative side. Do you recall any</p> <p>7 specifics of the individuals with whom you spoke?</p> <p>8 A. I don't.</p> <p>9 Q. Do you remember any of the issues that</p> <p>10 were raised in these conversations at any level of</p> <p>11 generality, other than the general topic of average</p> <p>12 wholesale price?</p> <p>13 A. Other than that?</p> <p>14 Q. Yes, sir.</p> <p>15 A. No.</p> <p>16 Q. And now in these conversations related to</p> <p>17 average wholesale price, we've used the term average</p> <p>18 wholesale price. What do you understand average</p> <p>19 wholesale price to be?</p> <p>20 MS. OBEREMBT: Objection.</p> <p>21 THE WITNESS: Well, I guess, some mix of</p> <p>22 what the words mean and what the IG reported. What</p>

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